

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appeal 2009-001096

Applicant:	Putnam et al.	Art Unit:	3623
Appl. No:	09/882,292	Examiner:	Boyce, A.
File Date:	June 15, 2001	Docket No.:	2709/113
Invention:	System and Method of Identifying Options for Employment Transfers Across Different Industries		

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REQUEST FOR REHEARING (37 C.F.R. 41.52)

A. REQUEST FOR REHEARING

Appellant hereby requests Rehearing of the Decision of the Board, issued on August 27, 2009. The time period for filing the request is two months from the date of the original decision of the Board. 37 C.F.R. 41.52.

B. GROUNDS FOR REHEARING

1. THE DECISION IS INTERNALLY INCONSISTENT

Appellant respectfully requests clarification of the status of the claims because the Decision on Appeal is internally inconsistent. According to page 8 of the Decision, claims 3-6, 8-12, 14, 15, 17, 19, 21, 23, 24, 28-30, 34-38, 40, 42, 43, 45, 47, 49, 51, 53-55, 59, 61, 80-102, 104, 105, 111, 112, 118, and 119 are no longer rejected, although the Board's statement at page 6, line 20 seems to suggest that at least independent claims 3, 80, and 88 are rejected as being obvious under a new ground of rejection.

2. **THE BOARD HAS MISAPPREHENDED CORRELATION OF INDUSTRIES WITH RESPECT TO JOB FUNCTION CAPABILITY**

Appellant requests a rehearing with regard to all of the pending claims, and particularly independent claims 3, 80, and 88, on grounds that the Board has misapprehended the type of correlation used by Salmon vis-à-vis the type of correlation required by the subject matter claimed herein.

The claims are directed to identifying industries for potential transfer of a job function capability, specifically using a database that correlates a first industry with a set of second industries with respect to which a job function capability in the first industry is potentially transferable. Salmon is completely unrelated to identifying industries and neither teaches nor suggests identifying industries where a type of experience in one industry is transferable to another type of experience in another industry. Instead, Salmon concerns itself with screening a pool of candidates through a one-way matching process, e.g., a potential employer trying to identify candidates from among a large number of resumes. There is nothing in Salmon disclosing or suggesting that experience of one type in one industry is potentially transferable to an experience of another type in another industry.

At page 6, lines 10-11 of the Decision, the Board states that “Salmon discloses that the user creating a Buyer Profile correlates a candidate with multiple industries by weighting industry and experience.” The fact that a user of Salmon’s system can specify multiple matching criteria and corresponding weights (e.g., to specify some criteria as “musts” and some as “wants” and to specify the relative importance of the “wants”) is not a correlation of a first industry with a set of second industries with respect to job function capability as required by claimed invention.

A user of Salmon’s system might, for example, look for candidates having either sales or marketing experience, or look for candidates having sales experience with priority (i.e., a higher score) given to candidates having sales experience in electronics, and the criteria may be expanded if an insufficient number of candidates are matched based on a given set of criteria. There is nothing in Salmon, however, to indicate whether experience in one industry is potentially transferable to another industry. Thus, for example, Salmon’s system might match a candidate who has sales experience in an irrelevant industry (e.g., farming products) and yet fail to match a candidate who lacks sales or marketing experience but has transferable experience in another industry.

In essence, then, Salmon relies on a user-specified set of criteria for screening candidates in a way that arguably has been done by potential employers throughout history, e.g., having an administrative assistant separate resumes into

matching and non-matching piles and sorting the matching pile according to a specified preference, but now using a computer as the administrative assistant.

In contrast, the claimed invention provides a new and objective way to identify industries with respect to which a particular job function is potentially transferable, using a database that correlates the industries with respect to job function. Unlike Salmon, which provides one-way matching, this correlation can be used by both job seekers and employers to expand the scope of job search and recruiting activities to otherwise unidentified industries in which a job function is potentially transferable.

Thus, the presently claimed invention satisfies a long-felt need that is neither taught nor suggested by Salmon. Furthermore, as discussed in Appellant's Appeal Brief, the apparent goal of Salmon is to ensure that a particular subject is not considered for a particular job unless the subject already has experience with that job in the relevant industry, and so Salmon actually teaches away from the claimed invention.

For these reasons and for other reasons identified in Appellant's Appeal Brief, the contents of which are hereby incorporated by reference, Appellant respectfully submits that the claims are allowable over Salmon both alone and in combination with Joao.

Appellant therefore respectfully requests a rehearing on this appeal.

C. FEES

Appellant believes that no fee is due for this request for rehearing. If any fee is required, please charge Deposit Account No. 19-4972.

Date: October 27, 2009

Respectfully submitted,

/Jeffrey T. Klayman, #39,250/

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